IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

**CRP.No. 1046 of 2004**

AGAINST THE ORDER DATED 08/06/2004 IN EP 85/99 IN LAR.16/1992
OF SUBORDINATE JUDGE'S COURT,THODUPUZHA

REVISION PETITIONER: JUDGMENT DEBTOR:

STATE OF KERALA.

BY GOVERNMENT PLEADER SRI.M.P.SREEKRISHNAN

RESPONDENT: DECREE HOLDER:

SURENDRAN,
S/O.KUMARAN,
KADAYATHU HOUSE, TALLIKKAD,
KUTTAMPUZHA VILLAGE,
DEVIKULAM TALUK.

BY ADV. SRI.N.J.JOHNSON

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**I.A.NO.2419/2004 IN C.R.P.NO.1046/2004**

DISMISSED

19/10/2007 SD/- K.T.SANKARAN, JUDGE

//TRUE COPY//

AHZ/

**K.T. SANKARAN, J.**

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**C.R.P. NO. 1046 OF 2004 G**

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**Dated this the 19th day of October, 2007**

**O R D E R**

Aggrieved by the order dated 8th June, 2004, in E.P.No.85 of 1999 in L.A.R.NO.16 of 1992, on the file of the Court of the Subordinate Judge, Thodupuzha, the State has filed this revision. As per the award in L.A.R.No.16 of 1992, enhanced compensation was awarded to the respondent. According to the respondent, the full amount payable to the respondent was not paid by the State and, therefore, the Execution Petition was filed.

2. It would appear that a calculation statement was filed by the decree holder. There is considerable dispute as to the point of time at which it was filed and as to whether it was filed after the impugned order was passed or not. The court below as per the impugned order stated thus:

> "Proclamation settled. Total amount due till 8.6.04 is worked out to be Rs.6,95,885.79. The property 15 cents in Sy.No.163/11 with all improvements will be sold in auction on 7.7.04. Proclamation shall be published on or before 23.6.04. Upset price Rs.6,95,885/-.
>
> For sale 7.7.04."

The court below has not considered any of the objections raised by the revision petitioner/judgment debtor. There is no speaking order. How the amount of Rs.6,95,885.79 is arrived at, is not stated. On that short ground,

the impugned order is liable to be set aside.

Accordingly, the Civil Revision Petition is allowed. The impugned order, dated 8th June, 2004, is set aside. The executing court shall consider the objections raised by the revision petitioner/judgment debtor and shall pass a considered order within a period of three months from the date of receipt of a copy of this order. Both the parties are free to file calculation statements. The parties are also free to produce documents or other evidence to substantiate their contentions.

**(K.T.SANKARAN)**
**Judge**

ahz/